

Exhibit 2

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

DON STRONG,
400 Gabriel Drive
Kirkwood, MO 63122

and

ANNA BOENKER-STRONG,
400 Gabriel Drive
Kirkwood, MO 63122

and

JANET PARKER,
105 Southern Oaks Drive
St. Charles, MO 63303

and

DAN PARKER,
105 Southern Oaks Drive
St. Charles, MO 63303

and

DOUGLAS GALLATIN,
16810 Shawnee Valley Ct.
Marthasville, MO 63357

and

AMY GALLATIN,
16810 Shawnee Valley Court.
Marthasville, MO 63357

and

HAROLD "JOE" TURNER, JR.,
12855 Boenker Lane
Bridgeton, MO 63044

and

Case No. 17SL-CC01632-01

Division No. _____

JURY TRIAL DEMANDED

GENEVIEVE "JENNY" TURNER,)
12855 Boenker Lane)
Bridgeton, MO 63044)
)
and)
)
CHRISTINE "CHRIS" ELWELL,)
3038 Autumn Lakes Court)
Maryland Heights, MO 63043)
)
and)
)
LUKE BOENKER,)
12023 Charleston)
Maryland Heights, MO 63043)
)
and)
)
DEBRA BOENKER,)
12023 Charleston)
Maryland Heights, MO 63043)
)
and)
)
MARK BOENKER,)
20032 Joerling Lane)
Marthasville, MO 63357)
)
and)
)
MARY ANN BOENKER,)
20032 Joerling Lane)
Marthasville, MO 63357)
)
and)
)
KENNETH BOENKER,)
16820 Shawnee Valley Court)
Marthasville, MO 63357)
)
and)
)
AMY BOENKER,)
16820 Shawnee Valley Court)
Marthasville, MO 63357)

and)
)
ROBERT FRESE,)
1127 Nectar Drive)
St. Louis, MO 63137)
)
and)
)
ROSE BOENKER-FRESE,)
1127 Nectar Drive)
St. Louis, MO 63137)
)
and)
)
JOHN BOENKER,)
399 Bufford Road)
Eolia, MO 63344)
)
and)
)
WENDY BOENKER,)
399 Bufford Road)
Eolia, MO 63344)
)
and)
)
LAWRENCE SMITH,)
431 Hwy F)
Defiance, MO 63341)
)
and)
)
LUCY SMITH,)
431 Hwy F)
Defiance, MO 63341)
)
and)
)
JEFFREY KNEEMILLER,)
15 N. Harvey)
Ferguson, MO 63135)
)
and)

MARY ALLEN,)
3928 Blaine Avenue)
St. Louis, MO 63110)
)
and)
)
HAROLD SALMON,)
3928 Blaine Avenue)
St. Louis, MO 63110)
)
and)
)
KEITH KNEEMILLER,)
2461 Spikewood Court)
Florissant, MO 63031)
)
and)
)
STACY HUNTEBRINKER,)
4465 Mockingbird Lane)
Hillsboro, MO 63050)
)
and)
)
KERRY KNEEMILLER,)
2825 Dardenne Links Drive)
Dardenne Prairie, MO 63368)
)
and)
)
JSK PROPERTIES, LLC)
235 East High Street)
Jefferson City, MO 65101)
)
and)
)
MELANIE ALLEN)
439 Bennett Drive)
N. Aurora, IL 60542)
)
and)
)
REBECCA FERRIGNI)
1446 Le Chesnay Drive)
Centerton, AR 72719)
)

| | |
|--------------------------------|---|
| Plaintiffs, |) |
| |) |
| v |) |
| |) |
| REPUBLIC SERVICES, INC, |) |
| Serve Registered Agent: |) |
| 120 South Central Avenue |) |
| Clayton, Missouri 63105 |) |
| |) |
| and |) |
| |) |
| BRIDGETON LANDFILL, LLC |) |
| Serve Registered Agent: |) |
| 120 South Central Avenue |) |
| Clayton, Missouri 63105 |) |
| |) |
| and |) |
| |) |
| ALLIED SERVICES, LLC |) |
| Serve Registered Agent: |) |
| 120 South Central Avenue |) |
| Clayton, Missouri 63105 |) |
| |) |
| and |) |
| |) |
| WESTLAKE LANDFILL, INC. |) |
| Serve Registered Agent: |) |
| 120 South Central Avenue |) |
| Clayton, Missouri 63105 |) |
| |) |
| and |) |
| |) |
| ROCK ROAD INDUSTRIES, INC. |) |
| Serve Registered Agent: |) |
| 120 South Central Avenue |) |
| Clayton, Missouri 63105 |) |
| |) |
| |) |
| Defendants. |) |

FIRST AMENDED PETITION

For their causes of action, Plaintiffs state and allege as follows:

STATEMENT OF THE CASE

1. Plaintiffs, all extended members of the Boenker family, are owners of the Boenker family farm, an approximately 33 acre family farm where Edward and Helen Boenker raised their ten children. The Boenker family farm lies directly adjacent to the Westlake and Bridgton Landfills. The Defendants own and operate these landfills which accepted radioactive waste without the license to do so. This radioactive waste has spread to the Boenker family farm causing personal injury, property damage, and the need for medical monitoring. Defendants' have also so mismanaged the landfills that an underground fire now burns out of control and threatens the nuclear waste.

2. In their Petition, the members of the Boenker family seek a judgment against the Defendants for compensatory and punitive damages caused by the Defendants' intentional, reckless, and/or negligent conduct in owning, operating, and/or managing the landfills, both pre-closure and post-closure.

PLAINTIFFS

3. Plaintiff Rose E. Frese is now and at all relevant times has been a resident of the State of Missouri and the natural child of Edward and Helen Boenker.

4. Plaintiff Robert Frese is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Rose E. Frese.

5. Plaintiff Mary A. Allen is now and at all relevant times has been a resident of the State of Missouri and the natural child of Edward and Helen Boenker.

6. Plaintiff Harold Salmon is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Mary A. Allen.

7. Plaintiff Genevieve A. Turner is now and at all relevant times has been a resident of the State of Missouri and the natural child of Edward and Helen Boenker.

8. Plaintiff Joseph Turner is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Genevieve A. Turner.

9. Plaintiff Christy J. Elwell is now and at all relevant times has been a resident of the State of Missouri and the natural child of Edward and Helen Boenker.

10. Plaintiff Mark E. Boenker is now and at all relevant times has been a resident of the State of Missouri and the natural child of Edward and Helen Boenker.

11. Plaintiff Mary Ann Boenker is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Mark E. Boenker.

12. Plaintiff John A. Boenker is now and at all relevant times has been a resident of the State of Missouri and the natural child of Edward and Helen Boenker.

13. Plaintiff Wendy Boenker is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff John A. Boenker.

14. Plaintiff Luke J. Boenker is now and at all relevant times has been a resident of the State of Missouri and the natural child of Edward and Helen Boenker.

15. Plaintiff Debra Boenker is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Luke J. Boenker.

16. Plaintiff Anna C. Strong is now and at all relevant times has been a resident of the State of Missouri and the natural child of Edward and Helen Boenker.

17. Plaintiff Donald Strong is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Anna C. Strong.

18. Plaintiff Lucy S. Smith is now and at all relevant times has been a resident of the State of Missouri and the natural child of Edward and Helen Boenker.

19. Plaintiff Lawrence Smith is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Lucy S. Smith.

20. Plaintiff Amy Gallatin is now and at all relevant times has been a resident of the State of Missouri and the natural niece of Edward and Helen Boenker.

21. Plaintiff Douglas Gallatin is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Amy Gallatin.

22. Plaintiff Kenneth E. Boenker is now and at all relevant times has been a resident of the State of Missouri and the natural nephew of Edward and Helen Boenker.

23. Plaintiff Amy Lynn Boenker is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Kenneth E. Boenker.

24. Plaintiff Janet M. Parker is now and at all relevant times has been a resident of the State of Missouri and the natural niece of Edward and Helen Boenker.

25. Plaintiff Dan H. Parker is now and at all relevant times has been a resident of the State of Missouri and the spouse of Plaintiff Janet M. Parker.

26. Plaintiff Kerry Kneemiller is now and at all relevant times been a resident of the State of Missouri and the natural nephew of Edward and Helen Boenker.

27. Plaintiff Keith Kneemiller is now and at all relevant times been a resident of the State of Missouri and the natural nephew of Edward and Helen Boenker.

28. Plaintiff Jeff Kneemiller is now and at all relevant times been a resident of the State of Missouri and the natural nephew of Edward and Helen Boenker.

29. Plaintiff Stacy Huntebrinker is now and at all relevant times been a resident of the State of Missouri and the natural niece of Edward and Helen Boenker.

30. Plaintiff JSK Properties, LLC is a Missouri limited liability company whose principal place of business is Missouri.

31. Plaintiff Melanie Allen has been a resident of Missouri, is currently a resident of Illinois, and is the natural daughter of Mary A. Allen.

32. Plaintiff Rebecca Ferrigni has been a resident of Missouri, is currently a resident of Arkansas, and is Genevieve A. Turner.

DEFENDANTS

31. Defendant Republic Systems, Inc. is a Delaware corporation conducting business in Missouri. Republic Services is and has been responsible for operating the Bridgeton and/or the West Lake Landfills.

32. Defendant Bridgeton Landfill, LLC is a Delaware limited liability company whose principal place of business is in Missouri. Defendant Bridgeton Landfill, LLC owns the Bridgeton Landfill and the Westlake Landfill.

33. Defendant Westlake Landfill, Inc. is a Missouri corporation with its principal place of business in Missouri. In 1988 it changed its name to Laidlaw Waste Systems, Inc. In 1998 it merged into Defendant Bridgeton Landfill, LLC.

34. Defendant Allied Services, LLC is a Delaware limited liability company and the sole member of Defendant Bridgeton Landfill, LLC. Defendant Allied Services, LLC oversees the operation and management of the Bridgeton and West Lake Landfills.

35. Defendant Rock Road Industries, Inc. is a Missouri Corporation and owns and/or owned the West Lake Landfill.

JURISDICTION AND VENUE

36. Jurisdiction is proper in this Court because all acts and omissions of the Defendants occurred in St. Louis County, Missouri. The nonresident Defendants in this action are subject to the jurisdiction of this Court pursuant to R.S.Mo. 506.5000 (1) and (3) because the causes of action stated in this petition arose out of their transactions of business in Missouri and out of torts committed in Missouri by the nonresident Defendants.

37. Defendant Rock Road Industries is a Missouri Corporation and therefore is a citizen of the State of Missouri. Because Plaintiffs are citizens of the State of Missouri and at least one Defendant is also a citizen of the State of Missouri, complete diversity does not exist in this matter and this case cannot be properly removed to federal court.

Defendants themselves have admitted the Price-Anderson Act is “wholly inapplicable”

38. Defendants Rock Road Industries and Bridgeton Landfill, LLC declared to the United States Federal Court for the Eastern District of Missouri in 2012 that the Price-Anderson Act does not apply to them because the Westlake Landfill was not licensed to accept or receive radioactive materials: “Count One, arising under the Price-Anderson Act, is wholly inapplicable to Rock Road and Bridgeton Landfill, as the West Lake Landfill is not a nuclear facility subject to licensing by the Nuclear Regulatory Commission.” Defendants Rock Road Industries and Bridgeton Landfill, LLC’s Memorandum in Support of Motion to Dismiss (Doc 15), *Adams v. MI Holdings, Inc.* Case No. 4:12-cv-00641-JCH

39. Because Defendants were not licensed to accept or receive radioactive materials, and have not entered an indemnification agreement concerning their acceptance of radioactive

materials, the Price Anderson Act does not apply to the claims being brought by Plaintiffs, they are not “public liability actions” brought under 42 U.S.C. § 2210, and instead they may proceed in state court under state law.¹

40. Venue is proper pursuant to R.S.Mo. 508.010(3) and (6).

GENERAL ALLEGATIONS
The Radioactive Material

41. In 1973, the West Lake Landfill accepted 40,000 tons of radiological waste.

42. This radiological waste included approximately 8,700 tons of leached barium sulfate residues.

43. The West Lake Landfill accepted this radioactive material from Cotter Corporation’s Latty Avenue site.

44. Cotter Corporation was a known possessor of radioactive material at the time and it was known in the area that Cotter Corporation was seeking to unload radioactive material.

45. Neither the West Lake Landfill’s owner nor operator sought a license from the Nuclear Regulatory Committee or any other entity prior to accepting and receiving this radioactive material.

46. The West Lake Landfill dumped this radioactive material directly into the ground.

¹ In the alternative, to the extent Defendants might now wish to contradict themselves and claim that the Price Anderson Act does apply: Because Defendants are not licensed, the federal safety standards and other federal regulations concerning radiation and radioactive waste do not establish the duty owed to Plaintiffs here and therefore the substantive laws of Missouri, including but not limited to the elements of common-law negligence, strict liability, nuisance, and punitive damages, are not inconsistent with § 2210 of the Price Anderson Act. Nor are the protections afforded to licensed and/or indemnified entities applicable to Defendants.

47. The West Lake Landfill did not share with the public that it had accepted this radioactive material.

48. This radioactive waste has contaminated the Boenker family farm and each member of the Boenker family was exposed as they lived and visited the Boenker family farm. This exposure includes but is not limited to Uranium 238 (U238), Thorium 232 (Th232), and Uranium 235 (U235), which have all been detected in significant quantities on the Boenker family farm.

The Underground Fire

49. In 2008, the Bridgeton Landfill began experiencing elevated subsurface temperatures subsequent to an increase in oxygen intrusion in extraction wells.

50. Despite being aware this was a concern, the Bridgeton Landfill took no action to address the oxygen intrusion.

51. Instead, as subsurface temperatures continued to rise, the Bridgeton Landfill increased the rate it extracted gas through its wells, thereby adding to the oxygen intrusion.

52. By 2009, it was clear that an underground fire had started. Temperatures were elevated and carbon monoxide levels were over 500 ppm.

53. Despite this, Bridgeton Landfill continued to fan the flames by continuing to extract gas through its Landfill Gas Collection system which increased the oxygen being fed into the fire.

54. Bridgeton Landfill has been unwilling or unable to extinguish the underground fire or stop it from spreading and it threatens the radioactive material.

55. Defendant Republic Services hired Vasbinder in May of 2009 to serve as Environmental Manager for 25 landfills, including the Bridgeton Landfill.

56. Vasbinder was trained by Romaine.

57. Vasbinder was made aware of the underground fire by at least December of 2009.

58. Because Defendant Republic Services had not properly vetted or trained Vasbinder, he continued to permit aggressive gas extraction. This caused the fire to grow by pouring oxygen into it.

59. In the alternative, the decision to continue aggressive gas extraction was an intentional one, made with disregard for the safety and/or rights of adjoining landowners.

Plaintiffs' Medical Injuries

60. The Plaintiffs have all been exposed to radiation at unacceptable levels. Each one will require medical monitoring.

61. The Boenker family has also experienced an unusually high amount of cancers associated with and caused by radiation exposure. This includes but is not necessarily limited to: Deborah Boenker was diagnosed with Chronic Lymphocytic Leukemia ("CLL") in 2014; Helen Boenker passed away from ovarian cancer; Edward Boenker's brother, Peter Boenker, passed away from colon cancer; Gary Boenker, the son of Pete Boenker, passed away from Leukemia; Plaintiff Christine Elwell's deceased husband suffered from both stomach and colon cancer;

Plaintiff Lawrence Smith has a spinal tumor; Plaintiff Lucy Smith has been found to have lumps in her breast; Plaintiff Mary Allen was found to have pre-cancerous uterine cells (removed); Plaintiff Harold Salmon was diagnosed with skin cancer; Plaintiff Keith Kneemiller was diagnosed with lymphoma and found to have cancerous polyps in his colon; and Genevieve Turner was diagnosed with endometriosis. Even Plaintiffs' children have been stricken with cancers associated with and caused by radiation: Mary Allen's daughter was diagnosed with breast cancer five years ago and another daughter was recently diagnosed with colon cancer. Other Plaintiffs and children have experienced bleeding and reproductive problems.

62. The diagnosed injuries that Plaintiffs are currently aware were caused by exposure to radiation are:

- a. Keith Kneemiller, diagnosed with lymphoma in 2016. Around that same time he was also found to have cancerous polyps in his colon;
- b. Lawrence Smith, diagnosed with spinal tumor in 2011;
- c. Christine Elwell, multiple colon polyps diagnosed in 2013, requiring laparoscopic total abdominal with partial proctectomy and ileoproctostomy; total hysterectomy;
- d. Melanie Allen, colon cancer, diagnosed in 2017; and
- e. Rebecca Ferringi, breast cancer, diagnosed in 2012.

63. For a long time, Plaintiffs were unaware of their exposure to radiation. It was not until less than five years before filing suit that their injuries and their cause first came together for any Plaintiff. Nor was the cause of their injuries reasonably ascertainable prior to such time.

COUNT I - NEGLIGENCE
DEFENDANTS REPUBLIC SYSTEMS, INC., WESTLAKE LANDFILL, INC.,
BRIDGETON LANDFILL, LLC, ALLIED SERVICES, LLC,
AND ROCK ROAD INDUSTRIES, INC

64. Plaintiffs hereby adopt and incorporate the paragraphs above as though fully set forth herein.

65. Defendants owed Plaintiffs a duty to use reasonable care in deciding whether to accept radioactive waste and the handling and use of the radioactive waste.

66. As set forth above, the Defendants failed to use reasonable care and were thereby negligent in performing their duties owed to plaintiff, to wit:

a. Defendants negligently and/or intentionally accepted radioactive waste without the capabilities to properly store or dispose of it;

b. Defendants negligently and/or intentionally failed to appreciate the nature of the radioactive material they accepted;

c. Defendants negligently and/or intentionally dumped radioactive waste directly into the ground;

d. Defendants negligently and/or intentionally spread radioactive waste around the landfill site;

e. Defendants negligently and/or intentionally failed to take appropriate measures to ensure that the radioactive waste does not threaten the health of neighboring landowners;

f. Defendants negligently and/or intentionally failed to warn its neighbors of the presence of radioactive waste;

g. Defendants negligently and/or intentionally failed to train their own employees on how to handle, store, and/or dispose of radioactive waste; and

h. Defendants negligently and/or intentionally committed other acts or omissions as of yet undiscovered by Plaintiffs.

67. As more fully set forth above, these negligent acts caused the Boenker family to be constantly bombarded by radiation while they were on the Boenker family farm.

68. The negligence of Defendants directly caused or directly contributed to cause injury to Plaintiffs as set forth herein. As a result of Defendants' negligence, Plaintiffs have suffered and will continue to suffer physical pain and mental anguish, experienced and will continue to experience other economic hardships, including but not limited to lost wages, medical expenses, and loss of property value. Plaintiffs will also require medical monitoring.

69. As a result of Defendants' negligence, Plaintiff JSK Properties, L.L.C. has suffered economic loss of property value.

70. At the time of Defendants' acts and omissions, Defendants knew or should have known that its behavior represented a severe health risk to the Boenker family and others similarly situated and thereby showed complete indifference to and/or conscious disregard for the safety of others including the Plaintiffs. Defendants conduct which caused this damage was willful, wanton and malicious, justifying the imposition of punitive damages.

WHEREFORE, Plaintiffs pray judgment against Defendants for actual damages, punitive damages, together with interest and costs of this action, and for such further relief as the Court deems fair and reasonable.

COUNT II - NEGLIGENCE
DEFENDANTS REPUBLIC SYSTEMS, INC., WESTLAKE LANDFILL, INC.,
BRIDGETON LANDFILL, LLC, ALLIED SERVICES, LLC,

71. Plaintiffs hereby adopt and incorporate the paragraphs above as though fully set forth herein.

72. Defendants owed Plaintiffs a duty to use reasonable care in owning and operating a landfill.

73. As set forth above, the Defendants failed to use reasonable care and were thereby negligent in performing their duties owed to plaintiff, to wit:

a. Defendants negligently and/or intentionally failed to take immediate steps to isolate, contain, suppress, inhibit, and/or extinguish the subsurface smoldering event/fire, despite the fact that it is reasonably foreseeable that such failures will likely cause an underground fire to spread throughout the landfill and intensify, causing the release of hazardous gases, contaminated leachate, noxious odors, groundwater pollution, and soil pollution;

b. Defendants negligently and/or intentionally continued to extract gas through the landfill gas wells;

c. Defendants negligently failed to train their own employees; and

d. Defendants negligently and/or intentionally committed other acts or omissions as of yet undiscovered by Plaintiffs.

74. As more fully set forth above, these negligent acts caused the Boenker family to be constantly bombarded by radiation while they were on the Boenker family farm.

75. The negligence of Defendants directly caused or directly contributed to cause injury to Plaintiffs as set forth herein. As a result of Defendants' negligence, Plaintiffs have suffered and will continue to suffer physical pain and mental anguish, experienced and will continue to experience other economic hardships, including but not limited to loss of property value. Plaintiffs will also require medical monitoring.

76. As a result of Defendants' negligence, Plaintiff JSK Properties, L.L.C. has suffered economic loss of property value.

77. At the time of Defendants' acts and omissions, Defendants knew or should have known that its behavior represented a severe risk to the rights of the Boenker family and others similarly situated and thereby showed complete indifference to and/or conscious disregard for the safety and rights of others including the Plaintiffs. Defendants' conduct which caused this damage was willful, wanton and malicious, justifying the imposition of punitive damages.

WHEREFORE, Plaintiffs pray judgment against Defendants for actual damages, punitive damages, together with interest and costs of this action, and for such further relief as the Court deems fair and reasonable.

COUNT III - RES IPSA LOQUITUR
DEFENDANTS REPUBLIC SYSTEMS, INC., WESTLAKE LANDFILL, INC.,
BRIDGETON LANDFILL, LLC, AND ALLIED SERVICES, LLC.,

78. Plaintiffs hereby adopt and incorporate the paragraphs above as though fully set forth herein.

79. Defendants had at all relevant times exclusive control and the exclusive right to control the construction, operation, design, and maintenance of the Bridgeton Landfill.

80. The Bridgeton Landfill developed an underground fire that spread and grew in intensity.

81. Defendants possessed superior knowledge or means of information as to the cause of the underground fire, its spread, and its increased intensity.

82. The underground fire, its spread, and its increased intensity does not ordinarily occur in the absence of negligence.

83. Based on the fact that the underground fire developed, spread, and grew in intensity, and reasonable inferences therefrom, such occurrences were directly caused by Defendants' negligence.

84. The negligence of Defendants directly caused or directly contributed to cause injury to Plaintiffs as set forth herein. As a result of Defendants' negligence, Plaintiffs have suffered and will continue to suffer physical pain and mental anguish, experienced and will continue to experience other economic hardships, including but not limited to loss of property value. Plaintiffs will also require medical monitoring.

85. As a result of Defendants' negligence, Plaintiff JSK Properties, L.L.C. has suffered economic loss of property value.

86. At the time of Defendants' acts and omissions, Defendants knew or should have known that its behavior represented a severe risk to the rights of the Boenker family and others similarly situated and thereby showed complete indifference to and/or conscious disregard for the safety and rights of others including the Plaintiffs. Defendants' conduct which caused this damage was willful, wanton and malicious, justifying the imposition of punitive damages.

WHEREFORE, Plaintiffs pray judgment against Defendants for actual damages, punitive damages, together with interest and costs of this action, and for such further relief as the Court deems fair and reasonable.

COUNT IV - NUISANCE
DEFENDANTS REPUBLIC SYSTEMS, INC., WESTLAKE LANDFILL, INC.,
BRIDGETON LANDFILL, LLC, AND ALLIED SERVICES, LLC.,

87. Plaintiffs hereby adopt and incorporate the paragraphs above as though fully set forth herein.

88. Defendants operated and continue to manage the Bridgeton Landfill directly adjacent to the Boenker family farm.

89. Defendants caused an underground fire to develop, spread, and/or intensify. This is an unreasonable use of their land and caused and continues to cause substantial impairment to Plaintiffs' ability to use and quiet enjoyment of the Boenker family farm.

90. Defendants knew or should have known that the Bridgeton Landfill caused and continues to cause substantial impairment to Plaintiffs' use and quiet enjoyment of their respective properties.

91. Defendants were active and knowing participants in the nuisance Plaintiffs describe herein. In addition, Defendants aided, abetted and assisted in the creation and/or maintenance of the nuisance complained of herein.

92. By their conduct described above, Defendants created and/or contributed to the creation and/or maintenance of the nuisance complained of herein.

93. Defendants' conduct described above constitutes a continuing and intentional nuisance and they have intentionally and willfully failed and refused to remedy the situation within a reasonable period of time. In addition, Defendants' conduct described above was outrageous because of their conscious disregard to the rights, health and safety of Plaintiffs thereby justifying an award of punitive damages against Defendants.

WHEREFORE, Plaintiffs pray judgment against Defendants for actual damages, punitive damages, together with interest and costs of this action, and for such further relief as the Court deems fair and reasonable.

COUNT V – STRICT LIABILITY
DEFENDANTS REPUBLIC SYSTEMS, INC., WESTLAKE LANDFILL, INC.,
BRIDGETON LANDFILL, LLC, ALLIED SERVICES, LLC,
AND ROCK ROAD INDUSTRIES, INC

94. Plaintiffs hereby adopt and incorporate the paragraphs above as though fully set forth herein.

95. Defendants shared control and use of the West Lake Landfill which created a high risk of harm.

96. The harm caused by accepting radioactive material has been and will continue to be significant including but not limited to cancer and medical monitoring.

97. Defendants are strictly liable in tort for the resulting harm to Plaintiffs' personal health, safety, and property.

98. The significant harm caused by the radioactive material vastly outweighs any value of the acceptance of the radioactive material onto the West Lake Landfill.

99. The act of owning, operating, and/or maintaining the West Lake Landfill, including the acceptance of radioactive materials, as more fully set forth above, constitutes an abnormally dangerous activity.

100. As more fully set forth above, Defendants' abnormally dangerous activity caused the Boenker family to be constantly bombarded by radiation while they were on the Boenker family farm.

101. The Defendants' abnormally dangerous activities directly caused or directly contributed to cause injury to Plaintiffs as set forth herein. As a result of Defendants' abnormally dangerous activities, Plaintiffs have suffered and will continue to suffer physical pain and mental anguish, experienced and will continue to experience other economic hardships, including but not limited to lost wages, medical expenses, and loss of property value. Plaintiffs will also require medical monitoring.

102. As a result of Defendants' inherently dangerous activities, Plaintiff JSK Properties, L.L.C. has suffered economic loss of property value.

103. At the time of Defendants' acts and omissions, Defendants knew or should have known that its behavior represented a severe health risk to the Boenker family and others similarly situated and thereby showed complete indifference to and/or conscious disregard for the safety of others including the Plaintiffs. Defendants conduct which caused this damage was willful, wanton and malicious, justifying the imposition of punitive damages.

WHEREFORE, Plaintiffs pray judgment against Defendants for actual damages, punitive damages, together with interest and costs of this action, and for such further relief as the Court deems fair and reasonable.

COUNT VI – TRESPASS
DEFENDANTS REPUBLIC SYSTEMS, INC., WESTLAKE LANDFILL, INC.,
BRIDGETON LANDFILL, LLC, ALLIED SERVICES, LLC,
AND ROCK ROAD INDUSTRIES, INC

104. Plaintiffs hereby adopt and incorporate the paragraphs above as though fully set forth herein.

105. As property owners, Plaintiffs have certain rights, including the right to exclusive possession and control of the property.

106. Upon information and belief, Defendants have unlawfully and intentionally entered onto Plaintiffs' Property to perform various testing without Plaintiffs' permission.

107. Defendants trespassed on Plaintiffs property.

108. By unlawfully trespassing on Plaintiffs' land, Defendants acted with a conscious disregard to the rights of Plaintiffs justifying an award of punitive damages.

WHEREFORE, Plaintiffs pray judgment against Defendants for actual damages, punitive damages, together with interest and costs of this action, and for such further relief as the Court deems fair and reasonable

COUNT VII – MEDICAL MONITORING
DEFENDANTS REPUBLIC SYSTEMS, INC., WESTLAKE LANDFILL, INC.,
BRIDGETON LANDFILL, LLC, ALLIED SERVICES, LLC,
AND ROCK ROAD INDUSTRIES, INC

109. Plaintiffs hereby adopt and incorporate the paragraphs above as though fully set forth herein.

110. As a proximate cause of Defendants' negligence and tortious conduct, Plaintiffs have been exposed to radiation and require medical monitoring.

111. Medical monitoring procedures are reasonably necessary to enable Plaintiffs to obtain diagnostic testing for early detection and treatment of latent injuries or disease that may develop as a result of exposure to radiation.

112. Plaintiffs therefore seek an injunction and/or other equitable relief from this Court creating a Court-supervised, Defendant-funded, comprehensive medical monitoring program for Plaintiffs that includes but is not limited to the following:

a. Establishment of a trust fund, in an amount to be determined, to pay for medical monitoring of Plaintiffs as frequently as medically necessary.

113. Plaintiffs have no adequate remedy at law in that monetary damages alone cannot compensate them for the increased risk of long term physical and economic losses associated with cancer and other diseases they are at risk for as a result of exposure to radiation.

WHEREFORE, Plaintiffs and class Plaintiffs pray judgment against Defendants for compensatory damages to establish a medical monitoring program in order to recover medical

expenses reasonably certain to be incurred in the future for costs of reasonably necessary diagnostic testing for early detection and treatment of latent injuries or disease that may develop as a result of exposure to radiation.

COUNT VIII - PUNITIVE DAMAGES
DEFENDANTS REPUBLIC SYSTEMS, INC., WESTLAKE LANDFILL, INC.,
BRIDGETON LANDFILL, LLC, ALLIED SERVICES, LLC,
AND ROCK ROAD INDUSTRIES, INC

114. Plaintiffs hereby adopt and incorporate the paragraphs above as though fully set forth herein.

115. Defendants committed one or more of the willful, wanton and malicious acts more fully set forth above which individually and/or cumulatively justify the submission of punitive damages in this case.

116. Defendants knew or had information from which, in the exercise of ordinary care, should have known that such conduct, as more fully set forth above, created a high degree of probability of injury to Plaintiffs and others similarly situated.

117. The willful, wanton and malicious acts of Defendants, as more fully set forth above, evidence Defendants' complete indifference to and/or conscious disregard for the safety of Plaintiffs, and others similarly situated, justifying the submission of punitive damages in this case.

WHEREFORE, Plaintiffs pray for judgment against Defendant for punitive damages in such an amount as will serve to punish and deter the Defendant, and others similarly situated, from engaging in like conduct.

DEMAND FOR JURY TRIAL OF ALL ISSUES

Respectfully submitted,

HUMPHREY, FARRINGTON & McCLAIN, P.C.

/s/ Kenneth B. McClain
KENNETH B. McCLAIN #32430
JONATHAN M. SOPER #61024
221 W. Lexington, Suite 400
Independence, Missouri 64050
(816) 836-5050
(816) 836-8966 FAX
kbm@hfmlegal.com
jms@hfmlegal.com
ATTORNEYS FOR PLAINTIFFS

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

| | | |
|---------------------------------|---|--------------------------|
| DON STRONG, et al., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| vs. |) | Case No. 17SL-CC01632-01 |
| |) | |
| REPUBLIC SERIVES, INC., et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

Now comes before the Court Plaintiffs' Unopposed Motion for Leave to File First Amended Petition and Response to Defendants' Motion for More Definitive Statement. After reviewing the Motion and being fully advised in the law and premises of the Motion, the Plaintiffs' are GRANTED leave to file their First Amended Petition.

IT IS THEREFORE ORDERED that the Plaintiffs' Unopposed Motion for Leave to File First Amended Petition is GRANTED and Plaintiffs' First Amended Petition is deemed filed with the Court as of this day.

IT IS FURTHER ORDERED that Defendants' Motion for More Definitive Statement is DENIED as moot.

IT IS SO ORDERED.

Date

Hon. Joseph L. Walsh, III